

ESTTA Tracking number: **ESTTA497293**

Filing date: **09/28/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Chicago Cubs Baseball Club, LLC
Granted to Date of previous extension	09/30/2012
Address	1060 West Addison Street Chicago, IL 60613 UNITED STATES

Name	Washington Nationals Baseball Club, LLC
Granted to Date of previous extension	09/30/2012
Address	Nationals Park 1500 South Capitol Street, SE Washington, DC 20003-1507 UNITED STATES

Attorney information	Mary L. Kevlin Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES sis@cll.com, trademark@cll.com, jmn@cll.com Phone:212-790-9200
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Applicant Information

Application No	85452733	Publication date	04/03/2012
Opposition Filing Date	09/28/2012	Opposition Period Ends	09/30/2012
Applicant	Fay, Joseph A. 1162 Almond Court Naperville, IL 60540 UNITED STATES		

Goods/Services Affected by Opposition

Class 038.
All goods and services in the class are opposed, namely: Radio broadcasting, Internet Radio broadcasting

Grounds for Opposition

Other	Please see attached filing
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Attachments	THE BIG W Letter to Commr.pdf (1 page)(72594 bytes) THE BIG W NOO.pdf (6 pages)(57930 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Seth Shaifer/
Name	Seth Shaifer
Date	09/28/2012



Cowan, Liebowitz & Latman, P.C.
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September 28, 2012

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Chicago Cubs Baseball Club, LLC and
Washington Nationals Baseball Club, LLC
Consolidated Notice of Opposition Against
Joseph A. Fay
Application to register THE BIG "W"
Ref. No. 21307.017

Dear Commissioner:

We enclose a Consolidated Notice of Opposition against Application Serial Number 85/452,733 published in the Official Gazette on April 3, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$600 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Seth Shaifer/
Seth Shaifer

Enclosures

cc: Ms. Diane Kovach (w/encs.)
Mary L. Kevlin, Esq. (w/encs.)
Richard S. Mandel, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/452,733
Filed: October 21, 2011
For Mark: THE BIG "W"
Published in the Official Gazette: April 3, 2012

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WASHINGTON NATIONALS BASEBALL CLUB, :	
LLC and CHICAGO CUBS BASEBALL CLUB, :	Opposition No.
LLC, :	
Opposers, :	
v. :	<u>CONSOLIDATED</u>
JOSEPH A. FAY, :	<u>NOTICE OF OPPOSITION</u>
Applicant. :	
-----X	

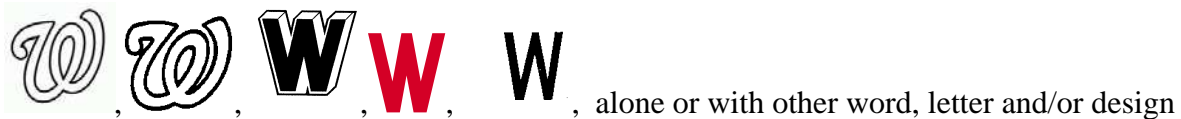
Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer Chicago Cubs Baseball Club, LLC (“Opposer Chicago Cubs”), a Delaware limited liability company, with offices at 1060 West Addison Street, Chicago, Illinois 60613, and Opposer Washington Nationals Baseball Club, LLC (“Opposer Washington Nationals” and collectively with Opposer Chicago Cubs, “Opposers”), a District of Columbia limited liability company, with offices at Nationals Park, 1500 South Capitol Street, SE, Washington, DC 20003-1507, believe that they will be damaged by registration of the standard character word mark THE BIG “W” (Applicant’s Mark”) for “Radio broadcasting, Internet Radio broadcasting” in International Class 38, as shown in Application Serial No. 85/452,733 (the “Application”), and having been granted extensions of time to oppose up to and including September 30, 2012, hereby oppose the same.

As grounds for opposition, it is alleged that:

1. Opposer Washington Nationals is the owner of the WASHINGTON NATIONALS MAJOR LEAGUE BASEBALL club.

2. Since long prior to October 21, 2011, Applicant's constructive first use date, Opposer Washington Nationals, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the letter mark W, including, without limitation, in the following distinctive stylizations:



, alone or with other word, letter and/or design elements (the “Nationals W Marks”), in connection with baseball games and exhibition services that are rendered live and through various broadcast media and over the Internet, and a variety of goods and other services.

3. Opposer Washington Nationals owns U.S. federal registrations for the Nationals W Marks in International Classes 9, 16, 25, 28 and 41, namely, Registration Nos. 1,654,941, 3,155,271, 3,240,446, 3,276,405, 3,336,006, 3,345,143 and 3,442,256. Registration No. 1,654,941 is incontestable.

4. Since long prior to October 21, 2011, Applicant's constructive first use date, Opposer Washington Nationals, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Nationals W Marks, including, but not limited to, baseball games and exhibition services that are rendered live and through various broadcast media and over the Internet, and a variety of goods and services, and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with the Nationals W Marks, Opposer Washington Nationals has built up highly valuable goodwill in the Nationals W Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Washington Nationals.

6. Opposer Chicago Cubs is the owner of the renowned CHICAGO CUBS MAJOR LEAGUE BASEBALL club.

7. Since long prior to October 21, 2011, Applicant's constructive first use date, Opposer Chicago Cubs, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the letter mark W, including without limitation as shown in the following stylization and design:



, alone or with other word, letter and/or design elements (the “Cubs W Marks” and collectively with the Nationals W Marks, “Opposers’ W Marks”), in connection with baseball games and exhibition services that are rendered live and through various broadcast media and over the Internet and a variety of goods and other services.

8. Opposer Chicago Cubs owns a U.S. federal registration for the CUBS W Mark in International Class 24, namely, Registration No. 3,053,475.

9. Since long prior to October 21, 2011, Applicant's constructive first use date, Opposer Chicago Cubs, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with the Cubs W Marks, including but not limited to baseball games and exhibition services that are rendered live and through various broadcast media and over the

Internet, and a variety of goods and services, and have sold or distributed such goods and rendered such services in commerce.

10. As a result of the sales and promotion of its goods and services bearing or offered in connection with the Cubs W Marks, Opposer Chicago Cubs has built up highly valuable goodwill in the Cubs W Marks, and said goodwill has become closely and uniquely identified and associated with Opposer Chicago Cubs.

11. On October 21, 2011, Applicant filed the Application for the standard character word mark THE BIG "W" for "Radio broadcasting, Internet Radio broadcasting" in International Class 38, based on an intent to use.

12. Upon information and belief, Applicant did not use Applicant's Mark for the services covered in the Application in United States commerce prior to its constructive first use date of October 21, 2011.

13. The services covered by the Application are closely related to the goods offered and services rendered in connection with Opposers' W Marks.

14. As Applicant's Mark is a standard character mark, registration of such mark effectively could give Applicant rights to the letter W in any stylization, including the stylizations of Opposers' W Marks that have been duly registered or have priority of use over Applicant's Mark. Additionally, registration of such mark effectively could prevent Opposer from developing additional "W" marks in the future.

15. Applicant's Mark so resembles Opposers' W Marks as to be likely, when used in connection with Applicant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's services have their origin with

Opposers and/or that such services are approved, endorsed or sponsored by Opposers or associated in some way with Opposers. Opposers would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposers believe that they will be damaged by registration of Applicant's Mark and request that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposers in this proceeding Mary L. Kevlin, Richard S. Mandel and Seth Shaifer (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
September 28, 2012

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposers

By: /Seth Shaifer/

Mary L. Kevlin
Richard S. Mandel
Seth Shaifer
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 28, 2012, I caused a true and correct copy of the foregoing Consolidated Notice of Opposition to be sent via First Class Mail, postage prepaid, to Correspondent of Record, Benjamin Ashurov, Esq., Raj Abhyanker, P.C., 1580 W. El Camino Real, Ste. 8, Mountain View, CA 94040-2462, with a copy to Applicant's Attorney, Kuscha Hatami Fard, Esq., Raj Abhyanker, P.C., 1580 W. El Camino Real, Ste. 8, Mountain View, CA 94040-2462.

/Seth Shaifer/
Seth Shaifer